

Captive Insurance

Overview

Carlton Fields works with captives across many industries in all 51 U.S. jurisdictions and in key foreign jurisdictions including Bermuda, Ireland, Luxembourg, Turks and Caicos, and the Cayman Islands. We provide the full range of services captives require, assisting with jurisdiction selection, formation, regulatory and compliance issues, tax questions, and dissolution. Our government consultants monitor legislative developments that affect captives, and lobby for and against legislation to advance our clients' interests.

Our experience includes assisting in the formation of captive insurers, both using the federal Risk Retention Act as well as association captives. We have represented captive reinsurers in drafting reinsurance program documents with a fronting insurer, including reinsurance, security, and administration agreements. We have negotiated and drafted commutation agreements on behalf of ceding companies, reinsurers, captive reinsurers, and insolvent company liquidators. After successfully lobbying the Florida state legislature to change the captive insurance law, we represented the first captive insurance company to become licensed in Florida in more than 25 years.

Carlton Fields also handles all aspects of tax matters associated with captive insurers. We have advised both domestic and offshore captives regarding tax issues related to formation, reorganization and dissolution, application of excise tax, and structuring to avoid adverse implications of U.S. anti-deferral rules applicable to foreign captives. In the context of tax controversies with the IRS, our attorneys have represented multinational corporations concerning the deductibility of premiums paid to captive insurance subsidiaries, and represented clients in connection with the qualification and treatment of policies issued by small captive insurers under IRC Section 831(b), both at the administrative appeals level as well as in tax court.

Insights

08.09.2018

New Jersey Tax Court Finds That Companies for Which New Jersey is the Home State Must Pay Taxes on All Premiums Paid to Captive Insurers for U.S. Based Risks

07.26.2018

U.S. Tax Court Finds Captive Insurer Is Not an “Insurance Company” Under the Internal Revenue Code

Our Team

Key Contacts



Robert B. Shapiro

OF COUNSEL



Barry Leigh Weissman

SHAREHOLDER

Additional Members



Alexandra Beguiristain

ASSOCIATE

Miami

📞 305.530.4024



Thomas F. Morante

SENIOR COUNSEL

Miami

📞 305.539.7252

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